

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference RAJTM-001PC		Date of mailing (day/month/year) 31 JAN 2005
International application No. PCT/US04/22134		FOR FURTHER ACTION See paragraph 2 below
International filing date (day/month/year) 09 July 2004 (09.07.2004)	Priority date (day/month/year) 10 July 2003 (10.07.2003)	
International Patent Classification (IPC) or both national classification and IPC IPC(7): A61K 38/16 and US Cl.: 514/8		
Applicant RAJADHYAKSHA, V. J.		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application


2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Marcela M. Cordero Garcia Telephone No. (571) 272-1600
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International application No.

PCT/US04/22134

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>4,5,8,9 and 11-14</u>	YES
	Claims <u>1-3,6,7,10 and 15</u>	NO
Inventive step (IS)	Claims <u>4,5 and 11-14</u>	YES
	Claims <u>1-3,6-10 and 15</u>	NO
Industrial applicability (IA)	Claims <u>1-15</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-3, 6-7, 10 and 15 lack novelty under PCT Article 33(2) as being anticipated by Pinegin (US 5,877,147). The instant claims are drawn to a method of treating metabolic or autoimmune disorder in a human or veterinarian patient, said method comprising the step of (A) administering to the patient a therapeutically effective amount of a compound having the formula I. Pinegin teaches the use of compounds encompassed by formula I in the treatment of cancer (which inherently reads upon a metabolic or autoimmune disorder).

Therefore, the reference is deemed to anticipate the instant claims above, as drafted.

Claims 1-3, 6-10 and 15 lack an inventive step under PCT Article 33(3) as being obvious over Pinegin (US 5,877,147) in view of American Academy of Pediatrics (Pediatrics, 1997). Pinegin beneficially teaches the use of compounds encompassed by formula I in the treatment of cancer (which intrinsically reads upon a metabolic or autoimmune disorder). Pinegin does not teach sublingual or nasal administration.

American Academy of Pediatrics, Committee on Drugs (Pediatrics, 1997) beneficially teaches the conventional use of nasal and sublingual routes for administration of drugs.

Thus, the invention as a whole is prima facie obvious over the references, especially in the absence of evidence to the contrary.

Claims 1-15 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.